

§205.212 “Buyer in ordinary course of business” and “security interest.”

The terms “buyer in ordinary course of business” and “security interest” are defined in subsections (c) (1) and (7). There are differences between those definitions and the UCC definitions of the same terms. In interpreting those differences, the following would be pertinent:

(a) The legislative intent discussed above in §205.211, to pre-empt State laws reflecting the “farm products” exception; and

(b) The legislative intent shown in subsections (a) and (b) that certain persons take free and clear of certain interests of a “secured lender” “when the seller fails to repay the lender,” unless such persons have information about such interests made available to them as provided in the Section.

§205.213 Obligations subject—“person indebted”—“debtor.”

(a) A debt need not exist at the time of filing of an EFS. The basis for this is that subsection (c)(4) does not require the EFS, and subsection (c)(2)(C) does not require the master list, to show any amount of debt.

(b) The Section does not provide for the transaction in which one person subjects a product to a security interest for another’s debt. However the terms “person indebted” and “debtor” in the Section refer to the person who owns a product and subjects it to a security interest, whether or not that person owes a debt to the secured party. The basis for this is the purpose for which the information is supplied. Any buyer of a farm product, commission merchant, or selling agent querying a master list or system operator about a prospective seller of a farm product is interested in whether that seller has subjected that product to a security interest, not in whether the debt is owed by that seller or by another.

(c) Security interests existing prior to establishment of a system can be filed in such a system and reflected in the master list if documents are in existence or are created which meet the requirements of subsection (c)(4) besides filing, if such documents are filed wherever State law requires, and if the system operator receives the information about them needed for the master list.

(d) A system can be in compliance with the Section, although it reflects security interests not supported by EFS’s as defined in the legislation, and although it reflects security interests on items other than farm products. However, subsections (e) (2) and (3), and (g)(2) (C) and (D), will apply only as to entries reflecting farm products and supported by EFS’s as defined in the Section, and it must be possible to distinguish the entries to which these provisions apply from the other entries.

§205.214 Litigation as to whether a system is operating in compliance with the Section.

(a) The requirements for a system in subsection (c) are written as the definition of the term “central filing system,” so that failure of a system to meet any such requirement, either at the time of its establishment or later, will mean that it is not a “central filing system” as defined.

(b) The issue whether a system, after certification, is operating in compliance, thus whether it is a “central filing system” as defined, could be litigated and ruled on in a case involving only private parties, such as a lender and a buyer of a farm product. The only immediate effect of a finding in such a case, that a system is not a “central filing system” as defined, would be that the rights of the secured party in the case would be as if the State had no system. However, others would be in doubt as to whether they could safely rely on the same system.

CHAPTER III—FOOD SAFETY AND INSPECTION SERVICE, MEAT AND POULTRY INSPECTION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—MANDATORY MEAT INSPECTION

<i>Part</i>		<i>Page</i>
301	Definitions	75
302	Application of inspection and other requirements ..	81
303	Exemptions	82
304	Application for inspection; grant or refusal of inspection	90
305	Official numbers; inauguration of inspection; withdrawal of inspection; reports of violation	91
306	Assignment and authorities of program employees	93
307	Facilities for inspection	94
308	Sanitation	99
309	Ante-mortem inspection	104
310	Post-mortem inspection	112
311	Disposal of diseased or otherwise adulterated carcasses and parts	129
312	Official marks, devices and certificates	138
313	Humane slaughter of livestock	142
314	Handling and disposal of condemned or other inedible products at official establishments	148
315	Rendering or other disposal of carcasses and parts passed for cooking	151
316	Marking products and their containers	152
317	Labeling, marking devices, and containers	158
318	Entry into official establishments; reinspection and preparation of products	233
319	Definitions and standards of identity or composition	317
320	Records, registration, and reports	336
321	Cooperation with States and territories	339

<i>Part</i>		
322	Exports	339
325	Transportation	341
327	Imported products	352
329	Detention; seizure and condemnation; criminal of- fenses	370
331	Special provisions for designated States and Terri- tories; and for designation of establishments which endanger public health and for such des- ignated establishments	372
335	Rules of practice governing proceedings under the Federal Meat Inspection Act	378
SUBCHAPTER B—VOLUNTARY INSPECTION AND CERTIFICATION SERVICE		
350	Special services relating to meat and other prod- ucts	383
351	Certification of technical animal fats for export	385
352	Exotic animals; voluntary inspection	392
354	Voluntary inspection of rabbits and edible prod- ucts thereof	399
355	Certified products for dogs, cats, and other carnivora; inspection, certification, and identi- fication as to class, quality, quantity, and condi- tion	424
362	Voluntary poultry inspection regulations	436
SUBCHAPTER C—MANDATORY POULTRY PRODUCTS INSPECTION		
381	Poultry products inspection regulations	441
SUBCHAPTER D—FOOD SAFETY AND INSPECTION SERVICE ADMINISTRATIVE PROVISIONS		
390	Freedom of information	669
391	Fees and charges for inspection services and lab- oratory accreditation	671
SUBCHAPTER E—REGULATORY REQUIREMENTS UNDER THE FEDERAL MEAT INSPECTION ACT AND THE POULTRY PRODUCTS INSPECTION ACT		
416	Sanitation	673
417	Hazard Analysis and Critical Control Point (HACCP) Systems	674